

**AMENDMENTS TO THE CLAIMS:**

The following listing of claims replaces all prior listings, and all prior versions, of claims in the application.

**LISTING OF CLAIMS:**

1. (Original) A non-aqueous secondary battery, comprising:  
a positive electrode,  
a negative electrode, and  
an electrolytic solution, which is charged or discharged by repeating a reaction of intercalating and deintercalating ions at said positive electrode and said negative electrode, respectively, wherein  
said negative electrode comprises graphite powder which has a particle size equal to or smaller than 100  $\mu\text{m}$  and which has an intensity ratio ( $P_2/P_1$ ) equal to or less than 0.92, wherein  $P_1$  is a diffraction peak of hexagonal crystal structure which appears in a range of the diffraction angle from 41.7 degrees to less than 42.7 degrees and  $P_2$  is a diffraction peak of rhombohedral crystal structure which appears in a range of the diffraction angle from 42.7 degrees to 43.7 degrees in a X-ray diffraction pattern with the  $\text{CuK}\alpha$  line.
2. (Currently amended) A non-aqueous secondary battery as claimed in claim 1, wherein said graphite has an intensity ratio ( $P_2/P_1$ ) equal to or less than 0.92, wherein  $P_1$  is a diffraction peak which appears in a range of the diffraction angle from 41.7 degrees to less than 42.7 degrees and  $P_2$  is a diffraction peak which appears in a range of the diffraction angle from 42.7 degrees to 43.7 degrees in a X-ray diffraction pattern with the  $\text{CuK}\alpha$  line.

3. (Currently amended) A non-aqueous secondary battery as claimed in claim 1, wherein said graphite has an intensity ratio ( $P_3/P_1$ ) equal to or less than 0.75, wherein  $P_1$  is a diffraction peak which appears in a range of the diffraction angle ~~from~~ 41.7 degrees to less than 42.7 degrees and  $P_3$  is a diffraction peak which appears in a range of the diffraction angle from 45.3 degrees to 46.6 degrees in a x-ray diffraction pattern with the CuK $\alpha$  line.

4. (Original) A non-aqueous secondary battery, comprising:  
a positive electrode,  
a negative electrode, and  
an electrolytic solution, which is charged or discharged by repeating a reaction of intercalating and deintercalating ions at said positive electrode and said negative electrode, respectively, wherein  
said negative electrode comprises graphite powder which has a particle size equal to or smaller than 100  $\mu\text{m}$  and which has an intensity ratio ( $P_3/P_1$ ) equal to or less than 0.75, wherein  $P_1$  is a diffraction peak of hexagonal crystal structure which appears in a range of the diffraction angle from 41.7 degrees to less than 42.7 degrees and  $P_3$  is a diffraction peak of rhombohedral crystal structure which appears in a range of the diffraction angle from 45.3 degrees to 46.6 degrees in a X-ray diffraction pattern with the CuK $\alpha$  line.

5. (Currently amended) A non-aqueous secondary battery as claimed in claim 4, wherein said graphite has an intensity ratio ( $P_2/P_1$ ) equal to or less than 0.92, wherein  $P_1$  is a diffraction peak which appears in a range of the diffraction angle from 41.1 degrees to less than 42.7 degrees and  $P_2$  is a diffraction peak which

appears in a range of the diffraction angle from 42.7 degrees to 43.7 degrees in a X-ray diffraction pattern with the CuK $\alpha$  line.

6. (Currently amended) A non-aqueous secondary battery as claimed in claim 4, wherein said graphite has an intensity ratio ( $P_3/P_1$ ) equal to or less than 0.75, wherein  $P_1$  is a diffraction peak which appears in a range of the diffraction angle from 41.7 degrees to less than 42.7 degrees and  $P_3$  is a diffraction peak which appears in a range of the diffraction angle from 45.3 degrees to 46.6 degrees in a X-ray diffraction pattern with the CuK $\alpha$  line.

7. (Original) Electrodes for a non-aqueous secondary battery, comprising:

a positive electrode, and

a negative electrode, wherein

said negative electrode comprises graphite powder which has a particle size equal to or smaller than 100  $\mu\text{m}$  and which has an intensity ratio ( $P_2/P_1$ ) equal to or less than 0.92, wherein  $P_1$  is a diffraction peak of hexagonal crystal structure which appears in a range of the diffraction angle from 41.7 degrees to less than 42.7 degrees and  $P_2$  is a diffraction peak of rhombohedral crystal structure which appears in a range of the diffraction angle from 42.7 degrees to 43.7 degrees in a X-ray diffraction pattern with the CuK $\alpha$  line.

8. (Currently amended) Electrodes for a non-aqueous secondary battery as claimed in claim 7, wherein said graphite has an intensity ratio ( $P_2/P_1$ ) equal to or less than 0.92, wherein  $P_1$  is a diffraction peak which appears in a range of the

diffraction angle from 41.7 degrees to less than 42.7 degrees and  $P_2$  is a diffraction peak which appears in a range of the diffraction angle from 42.7 degrees to 43.7 degrees in a X-ray diffraction pattern with the CuK $\alpha$  line.

9. (Currently amended) Electrodes for a non-aqueous secondary battery as claimed in claim 7, wherein said graphite has an intensity ratio ( $P_3/P_1$ ) equal to or less than 0.75, wherein  $P_1$  is a diffraction peak which appears in a range of the diffraction angle from 41.7 degrees to less than 42.7 degrees and  $P_3$  is a diffraction peak which appears in a range of the diffraction angle from 45.3 degrees to 46.6 degrees in a X-ray diffraction pattern with the CuK $\alpha$  line.

10. (Currently amended) Electrodes for a non-aqueous secondary battery, comprising:

a positive electrode, and

a negative electrode, wherein

said negative electrode comprises graphite powder which has a particle size equal to or smaller than 100  $\mu\text{m}$  and which has an intensity ratio ( $P_3/P_1$ )( $P_3/P_2$ ) equal to or less than 0.75, wherein  $P_1$  is a diffraction peak of hexagonal crystal structure which appears in a range of the diffraction angle from 41.7 degrees to less than 42.7 degrees and  $P_3$  is a diffraction peak of rhombohedral crystal structure which appears in a range of the diffraction angle from 45.3 degrees to 46.6 degrees in a X-ray diffraction pattern with the CuK $\alpha$  line.

11. (Original) Electrodes for a non-aqueous secondary battery, comprising:

a positive electrode, and

a negative electrode, wherein

said negative electrode comprises graphite powder which has an intensity ratio ( $P_2/P_1$ ) equal to or less than 0.92, wherein  $P_1$  is a diffraction peak of hexagonal crystal structure which appears in a range of the diffraction angle from 41.7 degrees to less than 42.7 degrees and  $P_2$  is a diffraction peak of rhombohedral crystal structure which appears in a range of the diffraction angle from 42.7 degrees to 43.7 degrees in a X-ray diffraction pattern with the CuK $\alpha$  line.

12. (Original) Electrodes for a non-aqueous secondary battery, comprising:

a positive electrode, and

a negative electrode, wherein

said negative electrode comprises graphite powder which has an intensity ratio ( $P_3/P_1$ ) equal to or less than 0.75, wherein  $P_1$  is a diffraction peak of hexagonal crystal structure which appears in a range of the diffraction angle from 41.7 degrees to less than 42.7 degrees and  $P_3$  is a diffraction peak of rhombohedral crystal structure which appears in a range of the diffraction angle from 45.3 degrees to 46.6 degrees in a X-ray diffraction pattern with the CuK $\alpha$  line.